

ITEM NO: \_\_\_\_\_

PREPARED BY: Susan Callison

COMMISSIONER: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_

County Attorney

Resolution to Amend Shelby County Retirement System Plan B to Add an Automatic Cost of Living Adjustment for Certain Retirees and Survivors. Sponsored by Commissioner J.W. Gibson.

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WHEREAS, by resolutions previously adopted, the Shelby County Commissioners adopted and has since maintained Shelby County Retirement System consisting of Plan A, Plan B and Plan C; and

WHEREAS, Section 7.5 of Plan B, as amended and restated effective January 1, 2007, provides as follows regarding cost of living adjustments and cost-of-living adjustments and bonuses:

"7.5 Cost-of-Living Adjustments. This Plan does not provide for any automatic cost of living adjustments to Pensions. From time to time the County Commission may enact through resolution a cost of living adjustment or a cost of living bonus with respect to the Pensions of the members of one or more categories of Retired Participants and Beneficiaries. Any such enactment shall be deemed to be an amendment to this Plan and shall be recorded as such in Article 12. Such additional benefits shall be subject to all of the provisions of this Plan."; and

WHEREAS, the Shelby County Retirement Board recommended that certain Plan B retirees and survivors be entitled to automatic cost of living adjustments; and

WHEREAS, the Shelby County Commission has determined that automatic cost of living adjustments for certain Plan B retirees and survivors is warranted but should be designed differently from the design recommended by the Retirement Board to reduce the additional funding costs to the County to less than \$1 million per year over time; and

WHEREAS, a copy of the System's actuary's actuarial impact letter with respect to the proposed amendments is attached hereto,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, that Plan B be, and is hereby, amended as follows:

1. The following two definitions are added to Article 1 of the Plan, to be inserted in the appropriate locations, alphabetically:

"COLA" means cost of living adjustment based in part upon the Consumer Price Index; the COLA applies to annual adjustments in the amounts of certain Pensions.

"Consumer Price Index" shall mean the Consumer Price Index for Urban Wage Earners and Clerical Workers as measured by the United States City Average for all items, published by the Bureau of Labor Statistics, and adjusted as may be necessary by the Actuary for any change in the index or its base.

2. Section 7.5 of the Plan is hereby amended to read as follows in its entirety:

7.5 Cost-of-Living Adjustments.

7.5.1 Ad Hoc Cost of Living Adjustments. Except as provided in 7.5.2, this Plan does not provide for any automatic COLAs to Pensions. From time to time the County Commission may enact through resolution an ad hoc cost of living adjustment or an ad hoc cost of living bonus with respect to the Pensions of the members of one or more categories of Retired Participants and Beneficiaries. Any such enactment shall be deemed to be an amendment to this Plan and shall be recorded as such in Article 12. Such additional benefits shall be subject to all of the provisions of this Plan.

7.5.2 Automatic COLAs for Certain Retirees and Survivors. Notwithstanding the provisions of 7.5.1, there shall be automatic COLAs to the Pensions of the following retirees and Survivors, and under the following terms and conditions:

7.5.2.1 Application to Certain Pensions. On January 1 of each calendar year, a COLA shall be made for the 12 months then beginning with respect to the following Pensions then being paid:

(a) Service Retirement Pensions, but (i) only for calendar years beginning after the Participant has attained age 65 and (ii) only if the Participant had completed 25 years of Credited Service prior to his Termination and (iii) only if the

date of the Participant's Termination was more than 120 months before such January 1 and (iv) only if the Participant's monthly Pension for the first month in which he is eligible for the COLA (regardless of whether or not a COLA is then payable under 7.5.2.2.1) is less than \$3,000;

(b) Disability Pensions, but only if the Participant's monthly Pension for the first month in which he is eligible for the COLA (regardless of whether or not a COLA is then payable under 7.5.2.2.1) is less than \$3,000;

(c) Survivor Pensions to surviving Spouses, but (i) only for calendar years beginning after the Spouse has attained age 65 and (ii) only if the Participant had completed 25 years of Credited Service prior to his Termination or whose death was a Line of Duty Death or whose Pension had been a Disability Pension and (iii) only if the date of the Participant's Termination was at least than 120 months before such January 1 and (iv) only if the surviving Spouse's monthly Pension for the first month in which she is eligible for the COLA or, if earlier, the Participant's monthly Pension for the first month in which he was eligible for the COLA (in either case, regardless of whether or not a COLA is or was then payable under 7.5.2.2.1) is less than \$3,000;

(d) Survivor Pensions to Eligible Children pursuant to Article 6, but (i) only if the Participant had completed 25 years of Credited Service prior to his Termination or whose death was a Line of Duty Death or whose Pension had been a Disability Pension and (ii) only if the date of the Participant's Termination was at least than 120 months before such January 1 and (iii) only if the sum of the monthly Survivor Pensions to Eligible Children for the first month in which they are eligible for the COLA or, if earlier, the Participant's monthly Pension for the first month in which he was eligible for the COLA (in either case, regardless of whether or not a COLA is or was then payable under 7.5.2.2.1) is less than \$3,000.

#### 7.5.2.2 Amount of COLAs.

7.5.2.2.1 In General. The COLA to each eligible Pension as of January 1 of each calendar year shall be the lesser of (a) 1% or (b) the percentage increase (if any) in the CPI-U (or, in the discretion of the Board, such other cost of living index utilized from time to time by the Social Security Administration in adjusting benefits under the OASDI provisions

of the Social Security Act) during the 12 month period ended on the preceding September 30, as computed by the Actuary.

7.5.2.2.2 Further Limitations. Notwithstanding the provisions of 7.5.2.2, except as otherwise permitted under IRC 415 as a result of the application of the COLA, no Pension shall at any time exceed 100% of the Participant's Final Average Earnings. Furthermore, for the Plan Year in which the Participant's post-Termination benefit first exceeds 100% of his Final Average Earnings, and for each succeeding Plan Year, the percentage increase in each benefit payment for each such Plan Year shall be the lesser of the COLA or the maximum permissible cost-of-living adjustment prescribed by the Secretary of the Treasury under IRC 415(d)(1)(B) and 415(d)(2).

3. These amendments are effective January 31, 2010.

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Joe Ford, Interim County Mayor

Date: \_\_\_\_\_

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Clerk of the County Commission

ADOPTED: \_\_\_\_\_